

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1732 OF 2005

Office Notes, Office
Memoranda of Coram Court's or Judge's orders
appearances, Court's orders
or directions and
Registrar's orders

Smt. S.I.Shah i/by M/s.S.I.Shah &
Co. for the applicants.

Mr.Nimish Desai for Respondent no.2

Mr.S.S.Pednekar, APP for the State.

Coram : R.S.Mohite,J

Date : 3.2.2006.

PC

1. This is an application impugning an order dated 7.5.2004 passed by the Metropolitan Magistrate, 14th Court, Girgaon, Mumbai, by which the trial Court has rejected discharge application and proceeded to frame charge against the accused. The order has been confirmed by the revisional Court. I have perused the complaint. Though the application has been filed without enclosing the evidence, the copy of the evidence has been tendered by the Advocate for the respondent across the bar and I have perused the same. Prima facie

there is a material to indicate offence under Sections 409 r/w 120-B of IPC. The case of the applicant is that accused nos.1 & 2 were Chairman and director of the complainant company. That they mis-utilised 200 cheques which were signed in blank by the managing director and withdrew a large amount of about Rs.2.80 crores from the company's account. It was sought to be contended before me that there were in fact 217 cheques. There is no such case made out in the complaint. The evidence in the matter has commenced. The question as to whom exactly the payments were made and as to whether the shareholders did receive any repayment, will be matter of evidence. In the circumstances, in my view, there is no substance in the application and the same stands rejected. Interim stay stands vacated.

(R.S.Mohite, J)